

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLIFFORD CRAVEN,

Plaintiff,

Case No. 1:04-CV-428

v

Hon. Wendell A. Miles

LITTON LOAN SERVICING, LP,
and MICHIGAN HOME FINANCE,

Defendants.

ORDER DENYING MOTION FOR SANCTIONS

Defendant has filed a motion for sanctions against plaintiff pursuant to Rule 11(c), Fed.R.Civ.Proc. (docket no. 24). The motion was filed on May 13, 2005, the same day it was served upon the *pro se* plaintiff. See Certificate of Service dated May 13, 2005.

Defendant has filed this motion in violation of Rule 11(c)(1)(A), which provides that the motion shall be served on the opposing party but shall not be filed with the court until 21 days after service of the motion. (The court may prescribe a different period, but has not been requested to nor done in this instance.) Sanctions under Rule 11 are simply unavailable unless the motion is served on the opposing party for the full 21 day “safe harbor” period before it is filed with or presented to the court. *See, First Bank of Marietta v Hartford Underwriters*, 307 Fed. 3d. 501, 510-11 (6th Cir. 2002). Since defendant has made no effort to comply with this requirement, the motion for sanctions (docket no. 24) is DENIED.

IT IS SO ORDERED.

Dated: September 15, 2005

/s/ Hugh W. Brenneman, Jr.
Hugh W. Brenneman, Jr.
United States Magistrate Judge